

UNITED STATES DISTRICT COURT

for the

Southern District of Indiana

Paul M. Fields

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

See Attached

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No. 4:22-cv-5-JMS-DML

(to be filled in by the Clerk's Office)

Jury Trial: *(check one)* Yes No

FILED

01/24/2022

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
Roger A.G. Sharpe, Clerk

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date, the full name of a person known to be a minor, or a complete financial account number. A filing may include *only*: the last four digits of a social security number, the year of an individual's birth, a minor's initials, and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievances, witness statements, evidence, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to (*check all that apply*):

Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

Other federal law (*specify the federal law*):

The ADA Amendments Act of 2008 (ADAAA); The Rehabilitation Act of 1973

Relevant state law (*specify, if known*):

IC 34-51-2; IC 34-51-3; IC 34-51-4

Relevant city or county law (*specify, if known*):

II. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name
Street Address
City and County
State and Zip Code
Telephone Number
E-mail Address

Paul M. Fields
105 Willowshore Dr. Apt. 4
Scottsburg; Scott
Indiana; 47170
(812) 595-8899
mfields1122@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, a corporation, or another entity. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

Defendant No. 1

Name	<u>Affiliated Construction Services, Inc.</u>
Job or Title (<i>if known</i>)	<u>Corporation</u>
Street Address	<u>633 Liberty Drive</u>
City and County	<u>Verona; Dane</u>
State and Zip Code	<u>Wisconsin; 53593</u>
Telephone Number	<u>(608) 663-1590</u>
E-mail Address (<i>if known</i>)	

Defendant No. 2

Name	<u>Matthew A. Jorgensen</u>
Job or Title (<i>if known</i>)	<u>Principal</u>
Street Address	<u>8005 Deer Run Rd.</u>
City and County	<u>Cross Plains; Dane</u>
State and Zip Code	<u>Wisconsin; 53528</u>
Telephone Number	<u>(608) 215-5239</u>
E-mail Address (<i>if known</i>)	<u>mjorgensen@acscm.com</u>

Defendant No. 3

Name	<u>Melissa A. Casey</u>
Job or Title (<i>if known</i>)	<u>Human Resources Manager</u>
Street Address	<u>505 Little Fox Trl.</u>
City and County	<u>Mount Horeb; Dane</u>
State and Zip Code	<u>Wisconsin; 53572</u>
Telephone Number	<u>(608) 778-9841</u>
E-mail Address (<i>if known</i>)	<u>mcasey@acscm.com</u>

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name	ACS, Inc.
Street Address	633 Liberty Drive
City and County	Verona; Dane
State and Zip Code	Wisconsin; 53593
Telephone Number	(608) 663-1590

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes (check all that apply):

- Failure to hire me.
- Termination of my employment.
- Failure to promote me.
- Failure to accommodate my disability.
- Unequal terms and conditions of my employment.
- Retaliation.
- Other acts (specify): **Negligence**

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

May 8, 2020; May 11, 2020; June 17, 2020; June 29, 2020; July 23, 2020; July 28, 2020; August 31, 2020

C. I believe that defendant(s) (check one):

- is/are still committing these acts against me.
- is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (*check all that apply and explain*):

<input type="checkbox"/>	race	_____
<input type="checkbox"/>	color	_____
<input type="checkbox"/>	gender/sex	_____
<input type="checkbox"/>	religion	_____
<input type="checkbox"/>	national origin	_____
<input type="checkbox"/>	age (<i>year of birth</i>)	<i>(only when asserting a claim of age discrimination.)</i>
<input checked="" type="checkbox"/>	disability or perceived disability (<i>specify disability</i>)	_____

Asthma and other respiratory illnesses.

E. The facts of my case are as follows. Attach additional pages if needed.

Count 1. The Plaintiff, Paul M. Fields, was employed by Affiliated Construction Services, Inc. (ACS) between 2012 and 2020. Fields was employed as a Site Superintendent managing construction project sites for third-party clients. In April, 2020, Fields was managing a construction site for Cummins, Inc. at the Cummins Technical Center (CTC) in Columbus, Indiana. On April 30, 2020, Cummins stated that face masks would be required to gain access to - and work at - the CTC site as of May 4, 2020. Fields was on personal leave during the week of May 4, 2020. On May 8, 2020, Fields notified his immediate supervisor at ACS, Matthew Jorgensen, as well as the ACS HR Manager, Melissa Casey, that he had a disability that prevented him from wearing a mask on his face. On May 11, 2020, Fields notified the ACS Safety Manager, Andrea Carlson, that he had a disability that prevented him from wearing a mask on his face. On May 11, 2020, Fields also notified Jorgensen and Casey again that he had a disability. On May 11, 2020, Jorgensen directed Fields to manage the CTC construction site remotely from his domicile. On June 29, 2020, Fields was placed on furlough. On July 23, 2020, Jorgensen notified Fields that his employment would be terminated on August 31, 2020. Fields's employment was terminated on August 31, 2020, due to his disability. As a result, Fields has suffered lost wages and humiliation. Fields wants his employment reinstated as well as lost wages and damages for his suffering.

Count 2. Plaintiff Paul M. Fields hereby incorporates all other paragraphs of this complaint and further alleges: Defendants Jorgensen, Casey and Carlson were notified in May 2020 that Fields had a disability that prevented him from wearing a mask on his face. Between May 2020 and his termination at the end of August 2020, the defendants failed and refused to address both the notifications of the disability and the disability itself. As a result, Fields suffered mental anguish, humiliation, and embarrassment, and wants compensatory and punitive damages for his suffering.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on (date)

May 18, 2021

B. The Equal Employment Opportunity Commission (check one):

has not issued a Notice of Right to Sue letter.
 issued a Notice of Right to Sue letter, which I received on (date) November 1, 2021.
(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (check one):

60 days or more have elapsed.
 60 days or more have not elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Wherefore, Plaintiff moves this Honorable Court to enter an Order for money damages against Defendants in the amount of \$350,000 (three hundred and fifty thousand US dollars) for discrimination, mental anguish, humiliation, embarrassment, negligence, and as a punitive deterrent against similar behavior in the future, together with such other and further relief as the Court may deem reasonable and just under the circumstances.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

INSD Pro Se Employment Discrimination Complaint 10/21 (adapted from AO Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination)

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 1/23/2022

Signature of Plaintiff

Paul M. Fields

Printed Name of Plaintiff

Paul M. Fields